Testimony of the Operating Engineers Local 478 On SB 1035, An Act Concerning Equal Access to Opportunities for Subcontractors March 9, 2009

The International Union of Operating Engineers, Local 478 is testifying on Senate Bill 1035, AAC Equal Access to Opportunities for Subcontractors. We have concerns about three of the revisions that are made to the current statutes. In Section 1 of the bill, Local 478 is concerned about the elimination of Section (j) of 4b-91, regarding prequalification of subcontractors with contracts over $500,000; in Section 2 (a) (2) (B) the elimination of the bonding requirement for contracts over $100,000 if the General Contractor has posted a bond; and in Section 3 (a) the change to the demolition license changing one of the standards for experience to years worked without defining the term "years".

Local 478 does not consider it a bad idea to require contractors that are performing substantial subcontracts of over $500,000 on public projects to prequalify to work on such projects. This restriction was put into the law to prevent contractors that cannot meet the conditions set by the state to prequalify to work on a state project from obtaining large contracts they may not be able to complete. A prime contractor is required to prequalify for a contract over $500,000, so Local 478 sees no difference between the two circumstances. Prequalification means that the subcontractor has submitted information on the record of the contractor's performance, including, but not limited to, written evaluations of the applicant's performance on public or private projects, the applicant's past experience on projects of various size and type, the skill, ability and integrity of the applicant and any subcontractors used by the applicant, the experience and qualifications of supervisory personnel employed by the applicant, the maximum amount of work the applicant is capable of undertaking as demonstrated by the applicant's financial condition, bonding capacity, size of past projects and present and anticipated work commitments. All of this information is critical to assessing the ability of a contractor to perform a substantial subcontract and should be available to the contracting agency. Allowing a General Contractor to take a chance on a $500,000 subcontract by using a subcontractor that could not bid on a prime contract of the same size is to ask for repeats of some of the bad performance that has occurred in the past, and to invite the return of bottom feeding subcontractors that would not be able to work on state projects under the current law. Local 478 does feel that seminars or other assistance from the state to contractors unable to

prequalify should be given to help the contractor build capacity so they can, in the future, be able to bid.

We also feel that to remove the requirement that contractors post bonds on subcontracts over $100,000 also could cause problems. A bond is an indication of a contractor's reliability and ability to perform and complete a project or portion of a project and, most importantly to us as a labor organization, a guarantee that the contractor's workers will be paid the monies owed them if the subcontractor defaults on that obligation. Local 478 realizes that bonds may be redundant if the General Contractor on the project has a bond, but combining this revision of statute with another that is currently proposed, SB 920, which practically eliminates the ability of a worker to collect monies owed to them for working on a project from the General Contractors bond or by placing a mechanics lien on a project, would allow subcontractors and general contractors to ignore obligations to workers with relative impunity. The only downside would be the chance of being caught by the 3 inspectors the DOL has working on wage issues. From my own work in attempting to include minority and women contractors in the New Haven School Building project when I was an elected official in the City of New Haven, I realize that bonding is a problem for some quality contractors that can be used to restrict them from bidding on state and municipal work. The solution we came up with was to allow the general contractor and the subcontractor to co-bond the projects. This allows the subcontractor to begin to establish bonding capacity on their own as they successfully complete projects, and to lower their cost for bonding if it is in the higher range. If the issue of nonpayment of workers' wages and benefits by a subcontractor is resolved, then we have no issue with this section of the bill.

Lastly, Local 478 thinks that a definition of "years "is required before changing section 29-402 of the CGS. The proposed change to the statute could conceivably allow someone that has no other experience in demolition other than tearing down one single family house that is not in proximity to any other houses per year for the last 3 years to apply and receive a Class B demolition license that would allow them to demolish buildings under 35 feet in height in the most congested part of a city, with buildings immediately adjacent to the structure. This could prove to be a significant safety issue. Local 478 feels that defining "year" as, at a minimum, 1400 hours supervisory experience demolishing buildings in a calendar year would solve this problem.